

DEC - 9 2003

Family Adoption Consultants

TO: U.S. Dept of State
CA/OCS/PRJ
Adoption Regulation Docket Room
SA-29
2201 C St NW
Washington DC 20520
Electronic mail adoptionregs@state.gov

FROM: Lorene Cook
Director
Family Adoption Consultants

RE: State/AR-01/96
Comments on Hague Convention on Intercountry Adoption

DATE: December 1, 2003

Family Adoption Consultants is a non profit agency licensed in the states of Michigan and Ohio. We have been continuously licensed since 1982. We handle a total of 120-140 adoption cases annually. 100-120 of those cases are intercountry adoption cases.

Comments on the proposed regulations:

Overall, the financial impact of these regulations on an agency of our size will be very significant. Accreditation costs have been estimated, including staff time have been estimated by some agencies to be as much as \$100,000. Insurance will add a significant cost. Waiting for the Central Authority to get up to speed and adding the additional layer of bureaucracy to the process will increase processing time and cost of each placement. We at FAC are likely to be driven out of business trying to comply with these regulations.

Subpart B

Not enough information or time was provided to state licensing authorities to include them in submitting requests to become accrediting entities. Those agencies in states where licensing authorities will become accreditors will have an advantage over those who will be forced to use the only other likely accrediting body that will cover the 50 states-Council on Accreditation. State licensing authorities should be contacted directly and individually and invited to apply. Time should be given them to do so. Most know nothing about this process.

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Subpart F

96:33 (e) cash reserve

Three months of cash reserve would be a significant hardship for a small agency like FAC to manage. We have been licensed for over 20 years and have yet to be able to manage a cash reserve of this nature consistently. Unanticipated changes in numbers of referrals and changes in processing regulations in foreign countries impact our budget beyond our control. We have been successful in operating on a pay as you go basis so we are not in the position of having to refund money to clients. Therefore, a one month cash reserve is recommended for the regulations.

96:33 (g) risk assessment

Please clarify what an "independent risk assessment" means. Our insurance agent is capable of providing such an assessment at no additional charge. If this is not acceptable, we would incur increased costs for such an assessment. This requirement as written would place an undue financial burden.

96:33 (h) insurance

FAC currently carries General & Professional Liability Insurance of 100,000/300,000. The premium is \$7,500. We made 135 adoptive placements in the last year. 21 domestic/114 international. We have never been sued. We do not have Directors & Officers insurance. The company writing our policies does not offer D&O coverage. We checked with other carriers and did not find one able to write a policy for us. Our current insurance company has indicated they may not be able to offer insurance next year.

We received the following quotes from carriers:

10/7/02	1,000,000/3,000,000 Premium \$32,487.50
10/21/02	1,000,000/3,000,000 Premium \$40,708

We recommend that 100,000/300,000 be adopted as adequate coverage.

Alternatively, require the adoptive parents to purchase adoption insurance. This would cover them for any avenues of protection they require.

Additionally, getting insurance with the mandates required for liability of the agency will be difficult, according to our insurance agent. Having legal responsibility for personnel other than our own staff will prevent FAC from securing insurance coverage.

96.35 (b)(4)(5)& (6) complaints

Providing ten years of documentation regarding complaints is too long. The accrediting process is 4 years. This requirement would bring up information during three accrediting cycles. We recommend the standard be 4 years, the accrediting cycle.

96.37 (f) master's degree requirements

Requiring a master's degree for staff to conduct home studies is both unnecessary and would pose a significant hardship to FAC to comply by increasing costs and restricting the pool of available staff. A bachelor's degree in social work or another human service field should be the standard. The states of Michigan and Ohio have this level of degree as part of licensing rules.

The following degreed personnel on our staff would not fit the requirement as presently written:

Cook	Degree	BA	With FAC since	1982
Baker		BA		1999
Baker		MA		1988
Brannon		MS		1989
Cowles		MS		2000
F Bohr		BS		1995
Keto		BS		2001
Michaluk		BS		1999
O'Neil		BS		1988
Poor		BA		1996
Smigel		BA		2001
Thom		BA		1995
Was		MA		1999
Wolf		BA		2000

These staff have extensive training and experience. A grand fathering clause should be included in the regulations if they are not changed to accommodate bachelor's level degrees.

96.38 (c) training

20 hours annually is more than required by most state licensing rules. 14 hours is required by Michigan licensing rules and is adequate.

96.39 (d) liability

International adoption has many risks and unknowns, including uncertain foreign government procedures and time frames; unknown background and medical information on the child etc. FAC educates families regarding these risks and unknowns. Courts have upheld contract waiver clauses in service agreements between agencies and adoptive families. The proposed regulations invite law suits. Consider a change in the regulation to allow agencies to disclose risks and ask the client to assume those risks as a condition of receiving service.

96.45 (b)(8) and (c) and

96.46 (b)(9) and (c)

It is unrealistic to expect U.S. agencies to be liable for acts of supervised providers in foreign countries. Again, this is an area that will be impossible to insure. Remove the liability and risk provisions and the remainder of the proposed policy is an adequate and acceptable provision.

96.49(e)(3-5)

Available medical information on children from third world countries is limited. More information is requested in the proposed rules than can be reasonably provided in many cases. The Central Authority in convention cases is the entity responsible for providing accurate medical information, not the U.S. agency.

Subpart K

The proposed rules do not allow fundamental due process for agencies. No appeal process is provided. Agencies have the right to due process and the rules must be modified to ensure this is available.

Finally, please reissue proposed regulations following the public comment period. This will allow incorporation of many of the comments and continued input from those to be regulated.

Sincerely,

Ms. Lorene Cook

Director

Family Adoption Consultants